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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

DAVID RIBOT, PERRY HALL, JR.,
 DEBORAH MILLS, ANTHONY
 BUTLER, JENNIFER BUTLER,
 JONATHAN LUNA, RITA DUNKEN,
 AND LOIS BARNES, individually,
 and on behalf of all others similarly
 situated,

Plaintiffs,

v.

FARMERS SERVICES, LLC,
 FARMERS INSURANCE
 EXCHANGE, and 21ST CENTURY
 INSURANCE COMPANY,

Defendants.

CASE NO. CV-11-02404 DDP (FMOx)

[DISCOVERY MATTER]

Honorable Fernando M. Olguin

**STIPULATION AND PROTECTIVE
 ORDER RE: PRODUCTION OF
 CONFIDENTIAL INFORMATION**

Second Amended Complaint Filed:
 September 19, 2011

**NOTE CHANGES MADE BY THE
 COURT**

1 Plaintiffs DAVID RIBOT, PERRY HALL, JR., DEBORAH MILLS,
 2 ANTHONY BUTLER, JENNIFER BUTLER, JONATHAN LUNA, RITA
 3 DUNKEN, AND LOIS BARNES (“Plaintiffs”), and Defendants FARMERS
 4 SERVICES, LLC, FARMERS INSURANCE EXCHANGE and 21ST CENTURY
 5 INSURANCE COMPANY (“Defendants”) (collectively, the “Parties”),
 6 acknowledge that discovery in this lawsuit may require the disclosure of
 7 information, documents and other records that constitute or contain trade secrets
 8 and/or commercially sensitive, proprietary and/or other confidential information,
 9 including documents and information related to Defendants’ business operations,
 10 payroll records, personnel records, and/or current or former employees.

11 In light of the substantial volume of records and information at issue and the
 12 fact that many of these documents and other forms of information are of the type
 13 deserving of protection, and to eliminate the need for repeated requests that the
 14 Court become directly involved in the discovery process, the Parties, by and
 15 through their respective counsel, HEREBY STIPULATE, AGREE, AND
 16 JOINTLY REQUEST, that a protective order with the following terms and
 17 provisions be entered:

18 1. This Stipulation and Protective Order shall govern documents, other
 19 records, depositions or other testimony, deposition exhibits, interrogatory
 20 responses, responses to requests for admissions, responses to document requests,
 21 and any and all other information and documents produced by the Parties (or third-
 22 parties) in connection with this case (all such records and information shall be
 23 referred to as “Information”).

24 **DESIGNATION AS CONFIDENTIAL**

25 2. Any Information produced by a party to this litigation or a third party
 26 in connection with this case (“the Producing Party”) that the Producing Party
 27 believes in good faith contains or comprises any confidential, proprietary,
 28 commercially sensitive, trade secret as defined by California Civil Code § 3426.1, or

1 otherwise non-public business, technical, or financial information, employee
2 personnel and/or earnings information, or information protected by third-party
3 privacy rights (“Confidential Information”) may be designated by the Producing
4 Party as “Confidential” by marking or designating the Information in the manner
5 provided in paragraph 3 of this Stipulated Protective Order. Confidential
6 Information shall not include any advertising materials published to the general
7 public or documents published to the general public. Failure of counsel to
8 designate Information as Confidential Information shall not be deemed a waiver of
9 confidentiality. In the event that a Producing Party inadvertently fails to designate
10 Confidential Information, or in the event that any other person or party learns of
11 the disclosure of Information that it deems to be Confidential Information, the
12 Producing Party or another party may make a later designation or change the
13 designation by so notifying all parties to whom the Confidential Information has
14 been disclosed. Late designation shall not be deemed a waiver of the protected
15 status of the designated Information. The Producing Party must reproduce late-
16 designated documents or other materials with the appropriate designation, and the
17 receiving parties must return or certify destruction of the non-designated copies of
18 the documents or other materials. To minimize the risk of inadvertent disclosure
19 of Confidential Information, all documents or other materials produced shall be
20 treated as Confidential Information for thirty (30) days after their production.
21 Confidential Information includes not only the information contained in documents
22 and other materials designated as such pursuant to this Order, but also any
23 summaries, copies, abstracts, compilations, or other documents or material derived
24 from Confidential Information.

25 3. The Producing Party may designate as “Confidential,” in whole or in
26 part, any documents or other materials by marking any copies of the documents or
27 other materials, in a manner not affecting legibility, with the word “Confidential.”
28 Whenever counsel for a party deems that any question or line of questioning calls

1 for the disclosure of Information that should be treated as Confidential
2 Information, or when Confidential Information is used during or in connection
3 with a deposition, counsel may: (i) state on the record that such Information is
4 being designated as “Confidential” or (ii) give written notice to all other counsel
5 that such Information is being designated as “Confidential” within twenty-one (21)
6 days after receiving a copy of the deposition transcript. Only those portions of the
7 transcript of the deposition designated “Confidential” shall be so treated, except
8 that all copies of deposition transcripts that contain designated Information shall be
9 prominently marked “Confidential” on the cover, and when filed with the Court, in
10 whole or in part, shall be filed under seal. For convenience, if a deposition
11 transcript contains repeated references to Confidential Information that cannot be
12 conveniently segregated from non-confidential Information, any party may request
13 that the entire transcript be designated Confidential. To avoid any inadvertent
14 disclosure of Confidential Information, all deposition transcripts and exhibits shall
15 be treated as Confidential for twenty-one (21) days after copies of the transcript are
16 available.

17 4. A party may designate as “Confidential” documents or discovery
18 materials produced by a non-party or another party by providing written notice to
19 all parties of the relevant documents or other Information to be so designated
20 within thirty (30) days after receiving such documents or materials. If that
21 happens, the parties agree to treat that Information as Confidential for all purposes,
22 regardless of whether the Information was previously disclosed without a
23 “Confidential” designation.

24 5. Any party may designate any documents or Information produced,
25 disclosed or exchanged during discovery prior to entry of this Stipulated Protective
26 Order, which such party considers in good faith to contain Confidential
27 Information, as “Confidential” by informing all other parties to this action in
28 writing. Such materials are covered by this Stipulated Protective Order.

1 6. The designation of Information as “Confidential” shall not be
 2 dispositive of the actual confidentiality of such material, nor shall it affect the
 3 burden of proof necessary to demonstrate the appropriateness of the designation of
 4 said material. Any dispute between the Parties as to the actual confidentiality of
 5 any particular material or Information shall be resolved pursuant to paragraphs 7, 8
 6 and 14, *infra*, of this Stipulated Protective Order.

7 7. Unless and until a court order changing a prior “Confidential”
 8 designation is entered, the “Confidential” designation shall not be affected.

9 **CHALLENGING DESIGNATION**

10 8. Nothing in this Stipulated Protective Order shall prevent a party
 11 receiving Confidential Information from seeking a further order of this Court
 12 declaring that such Information shall not be subject to the provisions of this
 13 Stipulated Protective Order.

14 **AUTHORIZED USE AND DISCLOSURE**

15 9. All Confidential Information produced, disclosed, or exchanged in the
 16 course of this litigation shall be used by the party or parties to whom the
 17 Information is produced or disclosed solely for the purpose of this litigation, and
 18 for no other purpose.

19 10. Any Information that has been designated “Confidential” in
 20 accordance with paragraphs 2, 3, 4, or 5 *supra*, shall not be disclosed to any person
 21 without the written consent of counsel for the party producing or designating it,
 22 except that disclosure may be made to:

23 a. Any party to this action (except that neither the named plaintiffs
 24 nor any subsequently-named plaintiffs, nor any member of the class, in the event
 25 one is certified, shall have the right to review any other employee’s confidential
 26 employment data), subject to the condition that any party to whom the Confidential
 27 Information is communicated must be advised of this protective order and be
 28 instructed and agree not to disclose the Confidential Information to any other

1 individual or entity not entitled to receive such Information pursuant to the terms
2 of this Stipulated Protective Order;

3 b. Any officer, employee, or former employee of any party who is
4 requested by counsel to assist in the defense or prosecution of this litigation,
5 provided, however, that disclosure of Confidential Information to said individual is
6 made only to the extent necessary for the officer, employee, or former employee to
7 provide such assistance and subject to the condition that any such person to whom
8 the Confidential Information is communicated must be advised of this protective
9 order and be instructed and agree not to disclose the Confidential Information to
10 any other individual or entity not entitled to receive such Information pursuant to
11 the terms of this Stipulated Protective Order;

12 c. Counsel retained by the parties for purposes of prosecuting or
13 defending this litigation, and their employees, secretaries, paralegal assistants and
14 case clerks;

15 d. Outside consultants, employees of copy services, or experts
16 retained to assist counsel in this action;

17 e. Any other person who the Producing Party agrees in writing
18 may have access to the Confidential Information;

19 f. A witness at a deposition, who shall not retain any copies of
20 that Confidential Information or any portion of that deposition transcript
21 designated as Confidential Information;

22 g. The Court, its personnel and its reporters; and/or

23 h. Any person who created the document or was a recipient
24 thereof.

25 11. Any party that seeks to make disclosure of Confidential Information
26 permitted under this Order to a person listed in subparagraph 10(d) above shall,
27 prior to such disclosure, advise the intended recipient of such Information of the
28 contents of this Order and require each such person to whom such disclosure is to

1 be made to execute a "Declaration Regarding Confidentiality" in the form attached
2 hereto as Exhibit A. The disclosing party shall retain the original of all
3 "Declarations Regarding Confidentiality." The disclosing party shall provide a
4 copy of all "Declarations Regarding Confidentiality" signed by expert witnesses to
5 opposing counsel upon request, after the deadline for designation of expert
6 witnesses as ordered by the Court. The disclosing party shall provide a copy of all
7 "Declarations Regarding Confidentiality" signed by outside consultants to
8 opposing counsel upon request, upon the conclusion of this matter and after the
9 time for appeal has expired. Should any party wish to share Confidential
10 Information with any potential witness who is not included in paragraph 10 above,
11 the Parties agree to meet and confer in good faith to file a Supplemental Stipulation
12 and [Proposed] Protective Order Regarding Production of Confidential Information
13 that would include any such potential witness.

14 12. The extent and manner in which any Confidential Information may be
15 disclosed at trial shall be decided by the Court at the final pretrial conference after
16 all parties have had an opportunity to be heard. Nothing herein shall be construed
17 to effect in any manner the admissibility as evidence of any information or
18 document.

19 **PROCEDURES FOR FILING WITH THE COURT**

20 13. Because documents filed with the Court are thereby exposed to the
21 public, any Confidential Information covered by the terms of this Stipulated
22 Protective Order must not be filed with the Court unless: (a) the filing party has
23 obtained a court order declassifying the document such that it is no longer subject
24 to the terms of this Stipulated Protective Order; (b) the Parties have agreed, in
25 writing, that the document has been declassified such that it is no longer subject to
26 the terms of this Stipulated Protective Order; or (c) the filing party has complied
27 with the rules of this court regarding the filing of documents under seal.
28

MISCELLANEOUS PROVISIONS

14. A party objecting to a designation under this Stipulated Protective Order shall first notify in writing the attorneys of record for the designating party and explain in writing the basis for the contention that the designation is inappropriate. Within ten days after receiving the party's contention that a designation under this Stipulated Protective Order is inappropriate, the designating party shall respond by explaining in writing the basis for the designation. Following receipt of the designating party's explanation for the designation, counsel shall promptly conduct a pre-filing conference of counsel pursuant to Central District Local Rule 37-1. If no resolution can be reached, the parties shall follow the procedures set forth in Central District Local Rule 37-2 for resolving the dispute. The party or third party asserting the "Confidential" designation shall be considered the "moving party" for purposes of Central District Local Rule 37-2 and shall have the burden of showing that the material designated as "Confidential" is a trade secret, is protected by privacy rights, contains proprietary information of a sensitive nature, is otherwise privileged, or disclosure would have an adverse impact on the party designating the material or on the third party whose privacy the designating party sought to protect. The designating party shall provide its portion of the Joint Stipulation in accordance with Central District Local Rule 37-2 within ten days of the pre-filing conference of counsel. Until the Court rules otherwise, the challenged Information shall be treated as "Confidential."

15. Entering into, agreeing to, and/or producing or receiving Information designated as "Confidential," or otherwise complying with the terms of this Stipulated Protective Order shall not:

a. operate as an admission by any party that any particular Information designated as "Confidential" contains or reflects trade secrets,

1 proprietary or commercially sensitive information, or any other type of
2 Confidential Information;

3 b. operate as an admission by any party that the restrictions and
4 procedures set forth herein constitute or do not constitute adequate protection for
5 any particular Information deemed by any party to be "Confidential";

6 c. prejudice in any way the rights of the Parties to object to the
7 production of Information they consider not subject to discovery;

8 d. prejudice in any way the rights of any party to object to the
9 authenticity or admissibility into evidence of any Information, testimony, or other
10 evidence subject to this Stipulated Protective Order;

11 e. prejudice in any way the rights of a party to seek a
12 determination by the Court whether any Information or material should be subject
13 to the terms of this Stipulated Protective Order;

14 f. prejudice in any way the rights of a party to petition the Court
15 for a further protective order relating to any purportedly Confidential Information;

16 g. limit a party's ability to grant non-parties access to its own
17 discovery materials and/or Information;

18 h. be deemed to waive any applicable privilege or work-product
19 protection, or to affect the ability of a party to seek relief for an inadvertent
20 disclosure of material protected by a privilege or work-product protection; and/or

21 i. prevent a party or third party from objecting to discovery which
22 it believes to be improper, including objections based upon the privileged,
23 confidential, or proprietary nature of the Information requested.

24 16. Nothing contained herein shall impose any restrictions on the use or
25 disclosure by a party of Information obtained lawfully by such party independently
26 of any proceedings in this action, or which is or becomes publicly known through
27 no fault or act of such party.

28 17. Neither the taking of any action under this Stipulated Protective

1 Order, nor the failure to object thereto, shall be construed as a waiver of any claim
2 or defense in this action. Moreover, neither the failure to designate Information as
3 “Confidential” nor the failure to object to a designation at a given time shall
4 preclude the filing of a motion at a later date seeking to impose such designations
5 or challenging the propriety thereof. Nothing in this Stipulated Protective Order,
6 and no action taken in compliance with it shall operate as an admission by any
7 party or person that any particular document or Information is or is not
8 confidential.

9 18. The entry of this Stipulated Protective Order shall not be construed as
10 a waiver of any right to object to the furnishing of Information in response to
11 discovery or to object to a requested inspection of documents or things, and, except
12 as expressly provided, shall not relieve any party of its obligation to produce
13 Information in the course of discovery pursuant to controlling law.

14 19. Nothing in this Stipulated Protective Order shall prevent any party
15 from seeking relief from any provision of this Stipulated Protective Order, seeking
16 modification of this Stipulated Protective Order, or objecting to discovery which it
17 believes to be privileged or otherwise improper.

18 20. Nothing herein constitutes or may be interpreted as a waiver by any
19 party of the attorney-client privilege, attorney-work-product doctrine, or any other
20 privilege.

21 21. Any party may consent to have any documents or other materials it
22 previously designated at “Confidential” removed from the scope of this Stipulated
23 Protective Order by so notifying counsel for the other parties in writing or by so
24 stating on the record at any hearing or deposition. Nothing contained in this
25 Stipulated Protective Order shall prevent any party from disclosing its own
26 Confidential Information for any purpose.

27 22. This Stipulated Protective Order may be modified by agreement of the
28 Parties, subject to approval of the Court.

1 23. This Stipulation shall be binding upon the Parties upon their signature
2 hereto, and by signing hereto, each Party agrees to comply with the terms of this
3 Stipulation and to be bound thereby, even prior to the Court's entry of the proposed
4 Protective Order based upon this Stipulation, and even if the Court does not enter
5 the proposed Protective Order based upon this Stipulation. In the event that the
6 Court does not enter the proposed Protective Order based upon this Stipulation, the
7 Parties shall in good faith negotiate any terms that the Court finds objectionable.

8 24. If any privileged or otherwise protected Information is inadvertently
9 produced, the Producing Party must provide written notice to any other parties that
10 such Information, or discovery material containing such Information, has been
11 inadvertently produced or disclosed. Within three (3) business days of the receipt
12 of such notice, each other party shall return to the Producing Party all such
13 discovery material and copies thereof identified in the notice in its possession,
14 custody, or control and shall make reasonable efforts to reclaim and return any
15 such discovery material and Information. The party that has inadvertently
16 produced or disclosed such Information shall, within ten (10) business days after
17 such material is returned to it, provide a privilege log identifying the discovery
18 material and the copies returned to the Producing Party such that the non-
19 producing party is able to challenge the Producing Party's claim that the discovery
20 materials are privileged or otherwise protected.

21 25. The provisions of this Stipulation and Protective Order shall not
22 terminate at the conclusion of this action. Within sixty (60) days after the final
23 conclusion of all aspects of the litigation, including any and all appeals, all
24 documents and other materials stamped or otherwise identified as "Confidential"
25 and all copies of the same (other than exhibits of record and the one (1) file copy of
26 each "Confidential" document per party that the California State Bar requires be
27 kept), shall be returned to the Producing Party's counsel or destroyed. In the event
28 Confidential Information is maintained in an electronic format, all counsel agree to

1 make a good faith effort to maintain only one (1) electronic copy of those materials
 2 allowed to be retained pursuant to this paragraph, plus any reasonable backups as
 3 used by the firm for disaster recovery. All counsel of record shall execute a
 4 certification of compliance herewith and shall deliver the same to counsel for the
 5 party that produced the documents not more than 60 days after final termination of
 6 this litigation. Upon request of the Producing Party, five (5) years following the
 7 final conclusion of all aspects of this litigation, the one (1) file copy of each
 8 “Confidential” document maintained by each party shall be returned to the party
 9 that produced such documents or destroyed.

10 This Stipulation and Protective Order are subject to revocation and
 11 modification by order of the Court upon written stipulation of the Parties or upon
 12 motion and reasonable notice.

13 Once the case proceeds to trial, all of the information that was designated as
 14 confidential and/or kept and maintained pursuant to the terms of this protective
 15 order becomes public and will be presumptively available to all members of the
 16 public, including the press, unless good cause is shown to the district judge in
 17 advance and the trial to proceed otherwise.

18
 19 **IT IS SO STIPULATED.**

20
 21 DATED: May 10, 2012

SLOAN, BAGLEY, HATCHER & PERRY
 LAW FIRM

22
 23 By /s/ Laureen Bagley
 24 Laureen Bagley

25 Attorneys for Plaintiffs
 26 DAVID RIBOT, PERRY HALL, JR.,
 27 DEBORAH MILLS, ANTHONY BUTLER,
 28 JENNIFER BUTLER, JONATHAN LUNA,
 RITA DUNKEN and LOIS BARNES

1 DATED: May 10, 2012

SEYFARTH SHAW LLP

2
3 By /s/ Daniel Whang
Daniel Whang

4 Attorneys for Defendants
5 FARMERS SERVICES, LLC, FARMERS
6 INSURANCE EXCHANGE, and 21ST
CENTURY INSURANCE COMPANY
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ORDER

GOOD CAUSE APPEARING, it is hereby ORDERED, ADJUDGED, and DECREED that all parties to this action shall obey the provisions of the attached Stipulation and Protective Order Re: Production of Confidential Information.

IT IS SO ORDERED.

Dated: 5/16/2012 /s/
The Honorable Fernando M. Olguin

EXHIBIT A

DECLARATION REGARDING CONFIDENTIALITY

I, _____, declare:

1. My address is _____.

2. I have carefully read the Stipulation and Protective Order Re: Production of Confidential Information in the litigation between Plaintiffs David Ribot, Perry Hall, Jr., Deborah Mills, Anthony Butler, Jennifer Butler, Jonathan Luna, Rita Dunken, and Lois Barnes, individually, and on behalf of all others similarly situated, and Defendants Farmers Services, LLC, Farmers Insurance Exchange and 21ST Century Insurance Company (collectively, "the Parties"), United States District Court, Central District of California, Case No. CV-11-02404 DDP (FMOx) ("the Order").

3. I am familiar with the contents of the Order and agree to comply with and be bound by the provisions thereof.

4. I will hold in confidence, will not disclose to anyone other than those specifically authorized by the Order, and will not copy or use except solely for the purposes of this litigation, and only as expressly permitted by the terms of the Order, any information designated as "Confidential" that I receive or view in this action.

5. By signing below, I hereby represent and affirm that I am not a current employee, owner, or agent of a competitor, or in any other manner a competitor or affiliated with a competitor of any of the Parties, or any third-party that has designated documents as Confidential in this action.

6. By signing below, I hereby agree to submit to the jurisdiction of the United States District Court, Central District of California, as the sole and exclusive venue for resolving any and all disputes regarding the Order and this Declaration Regarding Confidentiality.

1 I declare under penalty of perjury under the laws of the United States of
2 America and the State of California that the foregoing is true and correct.

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4 Executed on _____ at _____.

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6 _____
7 (Signature)
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